

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRIAN WHITAKER,
Plaintiff,

v.

NEIGHBORHOOD MARKET AND CAFE
INC,
Defendant.

Case No. [21-cv-09999-VC](#)

**ORDER DISMISSING UNRUH ACT
CLAIM**

Re: Dkt. Nos. 23, 25

The Court declines to exercise supplemental jurisdiction over the Unruh Act claim. *See Arroyo v. Rosas*, 19 F. 4th 1202, 1211–14 (9th Cir. 2021). Although the case is further along than usual when the Court dismisses Unruh Act claims in ADA access cases, the plaintiff filed a boilerplate response to the Order to Show Cause, so he has waived any arguments specific to this case. Overall, concerns of judicial economy, convenience, fairness to litigants, and comity do not favor retaining jurisdiction. *See id.* at 1214. And the facts of the case—“a frequent filer of ADA and Unruh Act claims seeking federal jurisdiction to circumvent California’s procedural barriers to such suits—present the type of exceptional circumstances contemplated by section 1367(c)(4)” to decline supplemental jurisdiction. *Whitaker v. Alice & Olivia California Holdings LLC*, 2022 WL 1135088, at *1 (N.D. Cal. Apr. 18, 2022).

Because the Court has dismissed the Unruh Act claim, the plaintiff has additionally asked that the Court dismiss the ADA claim without prejudice so that both claims can be litigated in a single forum. The Court is inclined to grant that request, but the defendant may file an objection within 4 days. If it does not respond, the ADA claim will be dismissed without prejudice.

//

//

//

IT IS SO ORDERED.

Dated: August 17, 2022

A handwritten signature in black ink, appearing to read 'V. Chhabria', is positioned above a horizontal line.

VINCE CHHABRIA
United States District Judge